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March 29, 2006

Honorable Roger Picquet
San Luis Obispo County Superior Court
County Government Center
San Luis Obispo, CA 93408

Re: 2005-06 Grand Jury Report
County Harbors

Dear Judge Picquet:

This letter is written on behalf of the Port San Luis Harbor District in response to the February 24, 2006 County Grand Jury report titled "County Harbors" as required by California Penal Code § 933.05(c). We appreciate the opportunity to provide our written response to the Grand Jury's in-depth report, findings and recommendations. The Jury demonstrates their thoroughness in their review.

The Grand Jury report correctly recognizes that the relatively recent heightened regulation of the fishing industry has resulted in a severe reduction in the Port San Luis commercial fleet. This reduction has and will continue to dramatically change the character of Port San Luis. We still strive to accommodate what's left of the local fleet, but must do so in the context of changing use and economic patterns.

The Grand Jury Report demonstrates an understanding of the economic strain on the Harbor District as Avila Beach rebuilds its structure and image after the Unocal cleanup. As these rebuilding efforts continue to successfully draw the public to Avila Beach, there has been and will continue to be a significant increase in the use of and demand for public facilities in Avila Beach. Many of these facilities, including the beach itself, are owned or operated by the Harbor District. Obviously, the increased use and demand for those facilities will cause the Harbor District to experience an increased requirement for maintenance, repair and staffing. Because the Harbor District, along with other special districts, is always at risk of a State decision for revenue reduction, one of the primary challenges faced will be a consistent and dependable source of funding to meet the increased public demand. For this reason, we concur with the Grand Jury's findings and recommendations.

The Harbor District supports the concept of a revenue sharing agreement with the County regarding the "bed tax" (Transient Occupancy Tax) generated in Avila Beach. Since the clean up, several hotels have been opened, modernized or are under construction. We anticipate that those hotels will be extremely successful in large part because of the District's operation and maintenance of public facilities. The Harbor District spends hundreds of thousands of dollars a year operating and maintaining the public facilities that benefit Avila Beach. A portion of the property tax revenues allocated to the District are used to pay for these facilities; however, such revenues will be insufficient to meet the public's expectation for facilities. Sharing of the

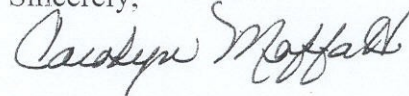
Transient Occupancy Tax is an equitable method to help the District meet the increased operation and maintenance costs and insure a continued benefit to the public. The Harbor District looks forward to working with the County in obtaining some of these new revenues from the hotel bed tax in Avila Beach.

Because of the recent boom in new building construction, including the in-fill of vacant lots, there is a reduction in permeable surfaces in Avila Beach. Coupled with a lack of flood control infrastructure in the area, there is and will continue to be a significant increase in community storm water runoff. The County's community Specific Plan, adopted a few years ago, called for the County to address flooding problems in low-lying areas of Avila Beach. Although some progress has been made in that area, much remains to be done. In furtherance of that purpose, the Harbor District has offered to dedicate the flood control channels in and around the Avila Beach public parking lot to the County. County Public Works has declined our offer except for one portion of a flood channel which runs parallel to First Street. That dedication was accepted by the County a few years ago. The County refused to take the whole flood channel system for reasons that are unclear to the Harbor District. We again in 2005 offered to dedicate the remaining flood channel systems to the County and were again turned down with no explanation. The offer remains open in an effort to assist the County in meeting its responsibility for flood control.

The Harbor District agrees with the Grand Jury that the County should undertake regular mosquito abatement in the Avila Beach drainage system. Also, the District, at a future regular Board meeting, will consider the fencing the drainage ditch as recommended by the Grand Jury.

In conclusion, the Harbor District agrees with the Grand Jury's discussions on the economic decline in the fisheries and the effects of the new construction and flooding issues in the Avila community. We will continue to engage in dialogue with the County on the recommendation of the Grand Jury in the hope of finding a solution to these issues. Thank you.

Sincerely,



Carolyn Moffatt
President,
Port San Luis Harbor Commission

CM: lp

cc: SLO County Board of Supervisors

March 9, 2006

MEMORANDUM

TO: David Edge, Administrator

FROM: Glen L. Priddy, Deputy Director of Public Works - Engineering Services

VIA: Noel King, Director of Public Works

SUBJECT: Response to Interim Grand Jury Report on County Harbors

The interim Grand Jury Report on County Harbors requires response from the County Public Works Department on Findings 2, 3 and 4 and Recommendations 2, 3 and 4.

Finding 2:

The drainage ditch at the parking lot represents a potential flooding hazard.

Response to Finding 2:

The Public Works Department is in partial disagreement with this finding.

The flooding and drainage situation in this portion of Avila is quite complex. However, the ditch is only a small part of a larger picture. While it is a fact that there is occasional standing water on the parking lot in Avila, portraying this situation as a "potential flooding hazard" implies a magnitude to the issue that is not supported by historical documentation.

Finding 3:

The drainage ditch presents a potential health hazard due to mosquito breeding.

Response to Finding 3:

The Public Works Department does not agree or disagree with this finding.

The Department has no knowledge of this issue and provides no services to the community that relate to health hazards due to mosquitoes.

Finding 4:

A safety problem also results from the ditch being uncovered and unprotected.

Response to Finding 4:

The Public Works Department does not agree or disagree with this finding.

The Department has no data relating to the accident history of this ditch or information on the design of circulation in the parking lot as it relates to the ditch, and none was presented in the Grand Jury report on this matter.

Recommendation 2:

Whereas the county benefits economically from the development of Avila and the future revenues generated thereby, and whereas the county has approved the plans and granted the permits for building and paving in Avila, and whereas the county flood control district is responsible for flood control in Avila, and whereas the county must share in the potential burden and liability for any damage resulting from flooding of the drainage ditch in its flood control district, the county should therefore assume responsibility for designing, providing, and maintaining a solution to the potential overflow and flooding problems at the drainage ditch.

Response to Recommendation 2:

This recommendation will not be implemented by the County Public Works Department.

Response to “Whereas” clauses:

The Public Works Department has no response relating to economic benefit or revenue generation.

The Department agrees that the County has approved plans and granted permits in Avila.

The County Flood Control District is not responsible for flood control in Avila.

The Public Works Department has no response to potential burden or liability for damage resulting from flooding.

Response to assumption of responsibility:

History

The area of the parking lot in Avila has flooded for well over a century. In a natural condition, the location was an estuary and mud flat. Sometime over one hundred years ago, the railroad cut off the area from the sand spit with the construction of a trestle. As the town developed, the sand spit was protected with sea walls and the trestle was replaced with an embankment, but the elevation of the area in between was never raised very much. If this area was to be fully protected from flooding, its elevation should have been raised to match the sea walls that formed Front Street and the railroad embankment that dictated the elevation of Avila Beach Drive. This filling of land did not take place and the area was left in a hole. It has never been the responsibility of the County to dictate the elevation of private property.

Drainage of Parking Lot Area

The drainage dynamics of this area includes three major components. These are: runoff from higher levels of the Town of Avila; flood flow from San Luis Creek; and tidal flow from the Pacific Ocean. The old railroad and, later, Avila Beach Drive embankments would block creek and tidal flow from reaching the area, except that the flow from the town must be allowed to drain to the creek. Before Avila Beach Drive was constructed, the area of the parking lot was directly susceptible to storm flow from the creek and tidal flow from the ocean. To drain the town and to minimize flooding, a culvert was installed when the road was built in the 1960's. The culvert is equipped with a valve that blocks the flow from the creek and the tide but allows flow to drain from the town. This valve improved the situation but, at times, has leaked or been blocked open by debris. A new type of valve was installed a few years ago in an attempt to minimize backflow through the valve. It needs to be understood that because this area is in a hole, during high creek flow or high tide events, there is no outlet for storm flows entering the parking lot area from the town.

Agencies Providing Services

Avila Beach Drive, the culvert, the valve, as well as most of the other roads in the Town of Avila are all part of the County Maintained Road System which is administered by the County Public Works Department.

Water and sewer services for the Town of Avila are provided by the Avila Beach Community Services District (CSD). The CSD also provides sewage treatment for the Port San Luis Harbor District. Both the CSD and the Harbor District receive their water from the Lopez water project, which is administered by the County Public Works Department through the San Luis Obispo County Flood Control and Water Conservation District, Zone 3 and County Service Area 12. The CSD also receives water from the State Water Project through the Lopez project facilities.

The Harbor District operates the beach, the pier, and the parking lot. The County Department of General Services, Parks Division, operates and maintains the plaza and park on Front Street.

San Luis Obispo County Flood Control and Water Conservation District

The assertion that “the county flood control district is responsible for flood control in Avila” implies that the County is responsible for fixing all flooding and drainage problems in the county, which is incorrect. The Flood Control District is a Special District that is governed by the County Board of Supervisors and administered by the County Public Works Department. The District has the power to provide various services including flood control, and water supply. It has been a long standing policy of the District, since the existing needs far exceed the existing resources, that solutions to local problems must be funded by local communities to the extent that the local communities desire to receive those special services. For the District to provide specific services to any defined area, a zone of benefit must be formed within the District, and voter approved taxes or service charges must be paid to fund the service. Each zone provides only the service for which it was formed.

In the Avila area, Flood Control Zone 3 provides the wholesale drinking water supply, and it is paid for by those property owners and agencies who benefit from that service. Flood Control Zone 9 provides flooding studies and limited channel maintenance of San Luis Obispo Creek within the City of San Luis Obispo, and those services are funded by a special tax dedicated for that purpose. There is no current Flood Control Zone that provides flood control or drainage services in the Town of Avila.

Proposed Solution to Problem

There is a perceived flooding problem in the parking lot in Avila. The first step in addressing the problem is to determine the extent of the problem. As stated earlier, the area of the parking lot has always flooded during times of heavy rain. There is no data presented regarding the magnitude of damages that have occurred at this location over the years due to flooding. The new development in the area should have been designed to accommodate this known flooding problem. The effectiveness of these new designs is yet to be tested, so it is not yet known if there is truly a problem relating to the new development.

Since the parking area is in a hole and subject to three different flood sources, there is no way for a passive, gravity flow drainage system to provide total flood protection. The flooding of the parking lot could be helped by the installation of a flood water pumping system. These types of systems are very expensive to install and to operate. Before the implementation of any plan to install a pumping system proceeds very far, the benefit of keeping the lot dry should be compared to the cost of the system required to keep it dry.

There is no agency currently responsible for controlling flooding of the parking lot except the Harbor District, which owns it. Any agency that would implement a project to reduce flooding of the parking lot would have to basically do the same thing. That is, determine an area of benefit, create a benefit assessment zone, hold an election of the benefited properties, impose a service charge or tax, construct and operate the facilities. There are many agencies already providing services in the area that could go through these steps. These include the Harbor District, the Avila Community Services District, the County, and the Flood Control District. Since all these public agencies would ultimately have to gain

the support of the benefiting property owners, it is logical that the agency that already owns the parking lot, which would receive the most benefit from the process, should take the lead in solving the perceived problem. Also, experience has shown that voter approval is more likely to be attained by the agency closest to the voters with the problem because of the natural preference of the citizens for more local control.

Recommendation 3

The county should undertake regular mosquito abatement at the drainage ditch, or other appropriate measures, to prevent mosquito larvae from developing.

Response to Recommendation 3

This recommendation will not be implemented by the County Public Works Department.

The Department does not provide mosquito abatement services and has no program or authority to provide any services on privately owned property. The drainage ditch is located on property owned by the Harbor District. It is the responsibility of the property owner to maintain the facilities located on their property, including mitigating any health hazards that may exist.

This particular ditch was reconstructed during the project to rebuild the Town of Avila. Although the preexisting ditch had not been disturbed during the contamination clean up, the Coastal Commission dictated that the previous, easily cleaned concrete ditch be replaced with a gabion lined ditch which is very difficult to clean and promotes standing water. The Harbor District owned the ditch at that time, and did not formally protest or appeal the provisions of the Coastal Development Permit that contained this requirement. The Harbor District may wish to revisit the provisions of this permit and construct a ditch that is easier to maintain and less susceptible to standing water.

Recommendation 4

The ditch should be fenced and access restricted for safety reasons.

Response to Recommendation 4

This recommendation will not be implemented by the County Public Works Department.

The ditch is owned by the Harbor District and any maintenance or alteration of the facility should be done by that agency.

File: CF 270.190.01 Dept/Grand Jury

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TO: The Honorable Rodger Piquet,
California Superior Court, San Luis Obispo County

FROM: County of San Luis Obispo Board of Supervisors
Katchik "Katcho" Achadjian, Chairman

DATE April 25, 2006

RE: 2005-2006 Grand Jury Report - County Harbors

Thank you for the opportunity to respond to the Grand Jury report on County Harbors. This memo is the County Board of Supervisors response to the report. The required response from the County Public Works is also attached to this memo.

Grand Jury Finding 1

While major economic benefits of the beach, pier, and other District facilities accrue to the complex of new, luxury resorts and hotels at Avila Beach, and to the county treasury through bed taxes, the excess cost of operations must be borne by the residents of the District through their property taxes.

Board of Supervisor's response to Finding 1

We disagree with this finding.

District facilities, the beach and the pier are only part of an area that also includes surrounding natural areas, a golf course, a County park, the Pacific Ocean and the town of Avila. All of these attractions contribute to making the area a desirable place to recreate and develop. The Grand Jury fails to provide supporting evidence that the district is a main economic engine for the area. While we disagree that there is a direct and quantifiable correlation between the development in Avila Beach and existence of the Harbor District and its facilities, we agree that the presence of the Harbor District facilities add to the already considerable attraction of the coastal area of Avila Beach.

The Grand Jury report also fails to recognize that as the area grows the County is responsible for funding increased road maintenance, parks, law enforcement, fire protection and emergency medical services that are provided for residents, business owners and visitors to the Avila area including those that use and work in Harbor District facilities.

The main sources of revenue for the County to expand these services come from local property tax revenue, transient occupancy taxes and other discretionary revenues. These discretionary revenue sources are used to provide the types of services described above on a countywide basis. The Board of Supervisors must take into consideration the needs of the entire unincorporated area and allocate limited discretionary dollars where it is needed the most.

Additionally, it should be noted the Harbor District, formed in 1954, receives a portion of the property tax. The FY 2005-2006 Budget for the Port San Luis Harbor District shows that the District receives approximately \$2 million dollars in property tax revenue. The District benefits financially from the increase in property values within their tax rate area. This increase in revenue will help the District maintain their current services. However, the Grand Jury report did not acknowledge that the District also derives revenue from the operation of leases and services that are provided either by the district or its contractors. These include: boat hoist services, boat storage, gear storage, dry dock, boat repair, RV and camp sites, fuel and ice services, mooring sales, mooring leases, mooring rentals, and water taxi services. The revenue derived from the above District leases and services also helps to fund the District and its operations. Moreover, these revenues are largely under the control of the District and have the potential to be adjusted by the District to meet its needs. A quick glance at the District's 2005-2006 budget shows that revenues from District operations total over 1 million dollars or over 34% of the total income available for District operations. The Grand Jury finding does not address this significant source of revenue to the district.

Grand Jury Finding 2

The drainage ditch at the parking lot represents a potential flooding hazard.

Board of Supervisor's response to Finding 2

The Board adopts the response prepared by the Public Works Department in their Board letter dated March 23, 2006 attached to this report.

Grand Jury Finding 3

The drainage ditch at the parking lot represents a potential health hazard due mosquito breeding.

Board of Supervisor's response to Finding 3

Based upon input from the Public Health Department's Division of Environmental Health, we agree that the ditch, like many other water sources throughout the County, may be an area where mosquito breeding could take place. All such areas could pose a potential health hazard. We further note there is nothing specifically unique to the drainage ditch that makes it a greater hazard than any of the other hundreds or perhaps thousands of bodies of water in the county where mosquitoes could breed.

Grand Jury Finding 4:

A Safety Problem also exists from the ditch being uncovered and unprotected.

Board of Supervisor's response to Finding 4

The Board adopts the response prepared by the Public Works Department in their Board letter dated March 23, 2006.

Grand Jury Recommendation 1

A portion of the bed tax collected from the hotels and motels and resorts in Avila should be shared with the Harbor District for its operation and maintenance of the beaches and other facilities, which benefit these enterprises.

Board of Supervisor's response to Grand Jury Recommendation 1

We disagree with this finding. The recommendation is not warranted and is unreasonable. It is not warranted since the District has the potential to increase funding through revenue sources that are under its control (see response to Finding Number 1). The recommendation is unreasonable in that it fails to recognize that transient occupancy tax revenue (referred to as the bed tax in the Grand Jury Report) is a general purpose used to help offset the cost of County services countywide. This would include fire protection, law enforcement, emergency medical services and road maintenance services provided to the Port San Luis Harbor District area.

In essence, the Grand Jury seems to be saying that since the Harbor District may contribute to drawing people to Avila Beach, the District should share in the transient occupancy tax. Imagine the effect upon local governments if this concept were extended to other governmental entities throughout the state. Would the State of California be entitled to ask for a share of local transient occupancy taxes due to the draw created by Hearst Castle and the local state parks? Since there are now hotels in Avila Beach that could draw more boaters to the area, should the County be entitled to ask for a share of the boat launch and mooring fees from the Harbor District? How does the Grand Jury draw a distinction between their recommendation and the two examples cited above? The information in the report did not address this issue.

In summary, the rationale behind the Grand Jury recommendation would appear to conflict with Section 7280 of the Revenue and Taxation Code, which provides that cities and counties may levy and collect a transient occupancy tax. The legislature established the existing law to be simple, clear and used throughout the state as the appropriate means for the allocation transient occupancy tax.

Grand Jury Recommendation 2

Whereas the county benefits economically from the development of Avila and the future revenues generated thereby, and whereas the county has approved the plans and granted permits for building and paving in Avila and whereas the county flood control district is responsible for flood control in Avila, and whereas the county must share in

the potential burden and liability for any damage resulting from flooding of the drainage ditch in its flood control district, the County should therefore assume responsibility for designing, providing, and maintaining a solution to the potential overflow and flooding problems at the drainage ditch.

Board of Supervisor's response to Grand Jury Recommendation 2

The Board adopts the response prepared by the Public Works Department in their memo dated March 23, 2006 and determines that the recommendation will not be implemented because it is not warranted. There is an existing process to develop zones of benefit as the means to handle local flood control issues. Public Works identifies that the Grand Jury is incorrect in identifying that the "the county flood control district is responsible for flood control in Avila." The Public Works Department clarifies the relationship and policies of the Flood Control District for issues involving local flood control projects. A more appropriate solution would be to form a zone of benefit to fund appropriate flood control measures for this area.

Grand Jury Recommendation 3

The County should undertake regular mosquito abatement at the drainage ditch, or other appropriate measures, to prevent mosquito larvae from developing.

Board of Supervisor's response to Grand Jury Recommendation 3

County Environmental Health, a division of the Public Health Department, provides mosquito abatement services. Environmental Health treated mosquito larvae in the drainage ditch with larvicide in 2004. They returned in 2005 identified that small native fish discovered in the ditch had prevented the development of larvae. With regard to the recommendation that the county should undertake regular mosquito abatement at the drainage ditch, Environmental Health notes that they will respond to any complaints about mosquitoes, if appropriate, they would use larvicide, without charge for the service. Because the drainage ditch discharges into the San Luis Creek, the Dept of Fish and Game prevents the use of mosquito fish as a control method.

A process is already in place to address mosquito abatement in the drainage ditch.

Grand Jury Recommendation 4

The ditch should be fenced and access restricted for safety reasons.

Board of Supervisor's response to Grand Jury Recommendation 4

The Board adopts the response prepared by the Public Works Department in their memo dated March 23, 2006 noting that this the responsibility of the Harbor District.

ATTACHMENT 1

COUNTY SUPERINTENDENT

Julian D. Crocker



COUNTY BOARD OF EDUCATION

Gaye L. Galvan, Trustee Area #5

Paul Madonna, Trustee Area #2

Floyd Moffatt, Trustee Area #4

Larry Peterson, Trustee Area #3

Diane A. Ward, Trustee Area #1

August 4, 2006

Presiding Judge
San Luis Obispo County Superior Court
County Government Center
San Luis Obispo, CA 94408

The San Luis Obispo County Board of Education is in receipt of the recent Report from the Grand Jury regarding Community Schools in San Luis Obispo County. You have asked that the Board respond to the Report by September 6, 2006.

The Board has reviewed the response to the Report as developed by the San Luis Obispo County Office of Education. The Board is in agreement with the response developed by the County Office of Education, and is comfortable with submitting that response also as the Board's reply to your request. Attached please find a copy of the response.

The Board also acknowledges the effort of the Grand Jury in reviewing this important educational function conducted by the County Office of Education. We appreciate the attention that you have given the needs of students in our county's Community Schools.

Please contact the County Superintendent of Schools at 782-7201 if you need additional information or have questions.

Sincerely,

Diane Ward, President
SLO County Board of Education



RESPONSE TO FINDINGS OF GRAND JURY REPORT
REGARDING COMMUNITY SCHOOLS OPERATED BY
THE SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION
2005-06

FINDINGS:

1. Students in Community Schools are high-risk youth and are less likely to be college bound.

This finding is indisputably accurate. Many students attending Community Schools were not successful in traditional academic settings because they did not find the curriculum relevant or accessible. For most, their immediate goal is to complete their high school education and enter the work force.

2. State academic requirements are the same for Community School students as for regular school district students.

California's Education Code stipulates a minimum of 180 credits, in designated subject areas, as high school graduation requirements. In addition, all students must pass the California High School Exit Exam in order to be awarded a high school diploma. In San Luis Obispo County, traditional high school programs require between 235 and 270 credits to graduate, while Community Schools, which offer fewer elective courses, require 200. Per California Education Code, this course of study has been approved by the governing board of the Community Schools. Further, Community Schools recently earned a full six-year accreditation from the Western Association of Schools and Colleges.

3. There is a strong need, and a severe lack of funding, for vocational training in Community Schools.

As noted above, the majority of students attending Community Schools intend to enter the work-force, either full-time or part-time, upon completion of their high school education. Community Schools support student vocational goals through the Work Experience Education program, through the WORK program, and through informal efforts to help students identify, apply for, and retain entry-level positions in service industries. Because Community Schools were initially designed as transitional truancy and drop-out intervention programs operated by county offices of education, however, Community Schools are not structured to receive funding that support career and

vocational education such as Regional Occupational Programs. Thus, Community Schools are limited in their ability to provide specific vocational training and education.

Further, most Community School students lack the pre-vocational skills necessary to begin a successful job search. The former Mountain View Community School, a collaborative effort between the county office of education and Probation to provide hands-on vocational training for Community School students, bore this out. Students entered the program unprepared to meet work-place expectations, and consequently experienced yet another failure. For Community School students to succeed in a vocational program, a two-tier approach is needed. Students need first to acquire the essential habits and skills requisite to all successful employees in any occupation or profession—e.g., punctuality, the ability to follow directions, the ability to get along with co-workers, the ability to work independently, etc.—before they can benefit from specific job-skill training. The WORK program has proven to be a highly successful pilot effort at meeting this need; but funding for this program is minimal and is only guaranteed for one more year.

4. Past communication and collaboration between various agencies in dealing with the Community School population and the need for vocational training was lacking. The roundtable approach to this inquiry has opened new lines of communication and cooperation between various agencies, which can benefit the students in the Community School program.

Community Schools have always had an excellent working relationship with Probation and Family Care Network. These partnerships help to provide the non-academic support high-risk youth require for success. These partnerships have also helped to fund and support previous efforts to provide vocational education for Community School students. Beginning in Fall 2006, Community Schools will partner with Mental Health on a grant which will fund a Mental Health therapist to serve Community School students.

The COE also partners with the local business community. Superintendent Julian Crocker is a member of the Workforce Investment Board, while Assistant Superintendent Jeanne Dukes serves on the subsidiary Youth Council. Innovative means of providing vocational training and services to Community School youth have been actively explored through these venues; but, unfortunately, federal income criteria has proven too restrictive to allow access to most Community School students.

In the past, Community Schools have explored the option of ROP programs, which would seem to fill the need for more vocational training as identified by the Grand Jury. The problem has been that 1) slots in ROP programs are allocated to local districts, but not to COE programs, 2) eligibility for ROP courses is predicated on the ability of students to complete a year-long course, which is a significant barrier for the transient population served by Community Schools, and 3) California Education Code's prohibition of expelled students—a significant portion of Community Schools

population—from participating in programs offered on district campuses. Recently, however, it has come to the attention of state agencies that ROP's are not affiliated with COE's and do not offer courses to Community School students. Efforts are being made to increase enrollment caps and ease restrictions in order to include this high-risk population. Community School Principal David Bender will be working with county ROP coordinator Jim Souza to develop a pilot program for Community School students. Community Schools and their partner agencies will continue to dialogue and lobby at the state level.

5. There is a need for adult mentors to help in introducing WORK program students to job experiences.

Community outreach is critical for the success of the WORK program. Sharon Gaines, WORK program teacher, and Mia Spear, Job Placement Specialist, have done an outstanding job of identifying and recruiting local employers; but they need assistance in monitoring and supporting students outside the school setting. In this regard, Judge Teresa Estrada-Mullaney has been instrumental in advocating for mentors for Community School students. Arrangements have also been made with CASA to provide mentors for adjudicated youth. Community Schools will continue to work with the Court and CASA, as well as other community-based volunteer agencies, to seek suitable mentors for our high-risk youth.

RECOMMENDATIONS:

1. The WORK program should be continued and expanded to the next level (specific job skill exposure and training).

Since the Grand Jury report was issued, the Job Shadowing component of the WORK program has been implemented. Employers have included a range of professional and skilled occupations, as requested by students. Nearly all students have participated in the Job Shadowing program to date, with very positive feedback. We expect, with Probation collaboration and support, to continue and expand the Job Shadowing component of the WORK program in 2006-2007.

The WORK program has been re-funded for 2006-2007. Outreach efforts to all Community School sites have resulted in 15 students tentatively signed up to begin the program in the Fall.

2. The WORK program should be expanded to the north and south county Community School campuses when funds become available.

Work Experience Education (WEE), an incentive program through students with part-time jobs are able to earn academic credits for work experience, has been in place

throughout Community Schools for a number of years. In addition, plans are currently in place to expand components of the WORK program to Mesa View Community School and Chalk Mountain Community School in the form of an elective curriculum which focuses on work-readiness skills. We will continue to search for funding that would allow us to dedicate classroom space and a teacher/job placement specialist team in each location, but no immediate prospects appear on the horizon.

3. COE and Probation should communicate frequently and keep each other informed of problems, progress, and needs of the Community Schools WORK program. Roundtable discussions involving the needs and developments in the Community Schools vocational training efforts should continue on a regular basis.

COE and Probation have met quarterly with PIC to discuss progress, challenges, and needs of the Community Schools WORK program. In addition to these ongoing scheduled meetings, COE staff have frequent informal conversations with their partners in the WORK program about processes and procedures as well as individual student situations. Outside of the WORK program, administration from both Probation and COE meet quarterly to monitor and problem-solve Community School program and staffing issues (e.g., attendance, student discipline, safety, staff roles and responsibilities).

4. COE should create a team with PIC to approach private industry to generate additional funding for continuation and expansion of the WORK program. Funding and alternative methods of support for the program can include job shadowing, OJT (On the Job Training), and dedicated financial sponsorship for groups of students.

COE and PIC are currently in the exploratory stages of identifying possible additional sources of funding and alternative means of expanding the WORK program. PIC administration and management staff, together with COE Alternative Education and WORK program coordinator, recently completed a favorable audit of the program, finding no notable exceptions. As a result of this audit, coupled with a favorable Grand Jury report, funding for the WORK program has been extended for 2006-2007. COE is engaged in ongoing discussions with PIC about how to increase the number of WORK-eligible students, given federal income restrictions.

6. COE, Probation, and ROP professionals should work together to develop an approach to the state legislature to propose a pilot program in San Luis Obispo County. The pilot program should be designed to increase the availability of Career Technical Education for Community School students.

A meeting among COE, Probation, and county ROP professionals is currently in the planning stages. The Grand Jury report has raised awareness of the need for increased vocational education opportunities for Community School students, and county ROP

coordinator Jim Souza has expressed his desire to work with COE to develop a pilot program for Community School students.

8. This final recommendation requires some imaginative and very creative thinking on the part of COE, but no additional funding. COE should utilize their own existing facilities to create "job training" at Community School sites.

Community Schools have offered a number of "hands-on" elective courses to students in such areas as technology, landscaping, construction skills, food preparation and presentation, and office practices. In addition, Community School staff continually seek vocationally-oriented field trip opportunities for students, including visits to child care and elder care facilities, animal shelters, and other local businesses. Other opportunities to be explored include job shadowing/training within COE, to include nurses, IT specialists, and maintenance workers. Community School students are also actively encouraged to participate in Cuesta College Bridge and vocational education classes, including welding and automotive repair. Additionally, Cuesta College is in the process of submitting a grant, in collaboration with COE, to provide expanded vocational education training. If approved, specific slots will be reserved for COE alternative education students, to include both Community School and Grizzly Challenge Youth Academy.

TO: The Honorable Rodger Piquet,
California Superior Court, San Luis Obispo County

FROM: County of San Luis Obispo Board of Supervisors
Katchik "Katcho" Achadjian, Chairman

DATE May 9, 2006

RE: 2005-2006 Grand Jury Report - County of San Luis Obispo Gang Task
Force

Thank you for the opportunity to respond to the Grand Jury report related to the County of San Luis Obispo Gang Task Force. This memo is the County Board of Supervisors response to the report. The Sheriff-Coroner has responded to this report and sent his response to you separately. A copy of his response is also included with this report.

Grand Jury Finding 1

A federal Grant, which is subject to withdrawal at any time, continues to be the primary funding source for the Gang Task Force.

Board of Supervisors' response to Finding1

The Board partially agrees with this finding. We agree that federal funding provides the majority of funding for Gang Task Force. However, we would note that the amount of federal funding has not kept pace with the actual costs of the task force. The Board of Supervisors adopted budget for the county includes a combination of the available federal funding and General Fund dollars to assure the continuing activities of the Gang Task Force. The federal funds are allocated on an annual basis. Once allocated, the funds are not withdrawn for that year. It is true that these funds, like many of the other special purpose state and federal funds allocated to the county could be withdrawn at some point in the future. However, we note that funding for the Gang Task Force is included as part of the departmental budgets for the County Sheriff-Coroner, District Attorney's Office and Probation Department. The departments work with the state and the federal government to determine whether federal funding for the Gang Task force will be available for the next year. The federal funding has been available for nearly 20 years and appears to be stable.

Grand Jury Recommendation 1

The expenditures for the Gang Task Force should be permanently funded as part of the annual San Luis Obispo County budget.

Board of Supervisors response to Recommendation 1

The recommendation from the Grand Jury will not be implemented, because it is not warranted at this time. The Gang Task Force is currently funded and is included in the county budget. A portion of the funding comes from federal sources that have historically been stable. The recommendation implies that other funding sources should be used to fund the Gang Task Force. This would entail forgoing the use of federal funding and replacing it with County General Funds. We do not believe that the county should forgo the use of these federal funds, as they are specifically dedicated for the functions of the Gang Task Force. We also note that the Gang Task Force has been fully funded even as the costs of the Task Force have exceeded the dollars provided by the federal funding. If federal funding for this program ceases entirely, the Board will then consider the use of other funding sources to continue the Gang Task Force. This consideration will occur as part of the county budget process.



June 21, 2006

President

Lisa Schicker

Vice-President

John Fouche

Director

Chuck Cesena

Steve Senet

Julie Tacker

Hedy Damery, Foreperson

San Luis Obispo Grand Jury

P.O. Box 4910

San Luis Obispo, CA 93493

Response to Los Osos Community Services District Investigation

Ladies and Gentlemen:

Interim General Manager

Daniel M. Bleskey

Utilities Manager

George J. Milanés

Fire Chief

Matt Jenkins

The Los Osos Community Services District (the "CSD") responds as follows to the findings and recommendations set forth in your report entitled "Los Osos Community Services District" issued May 13, 2006:

FINDINGS

The Grand Jury found that public funds were used to reimburse the citizen groups who had retained legal counsel to pursue extensive litigation against the CSD during 2005. The Grand Jury acknowledged that this reimbursement to the citizen groups for settlement of five outstanding lawsuits was effected pursuant to a settlement agreement negotiated and executed by the CSD. The Grand Jury is concerned that the CSD did not present itemized billings reflecting the specific tasks that had been performed by the law firm for the citizen groups, although the report acknowledges that the attorneys for those groups did voluntarily provide redacted billings showing the dates, time and case matters that were handled.



Offices At:

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Negotiations between the CSD and the citizen groups regarding settlement of the legal actions resulted in the settlement of all five actions, including a pre-election challenge to an initiative petition that was thrown out by the court of appeal, thereby permitting the initiative to be placed on the ballot. That lawsuit alone, posed a risk to the CSD of a judgment for attorneys fees in the

range of \$450,000. The CSD was able to settle all pending lawsuits for only a small amount more.

The CSD was entitled to rely on the redacted billings as evidence of the work that had been done with regard to the five lawsuits at issue, and to rely on the advice of its interim general counsel with regard to the reasonableness of the settlement amount agreed upon. The Grand Jury did not comment upon or criticize in any way the terms of the settlement agreements, which included payment over time without interest to the benefit of the CSD.

It should be noted that the CSD did not retain or have an attorney-client relationship with the law firm that represented the citizen groups while the now-settled litigation was pending. The CSD retained that law firm only after settlement of the litigation.

RECOMMENDATIONS

The Grand Jury has recommended that the CSD waive the attorney-client privilege in order to make the itemized billings available to the public in order to clarify whether and to what extent public funds may have been used to reimburse the citizen groups for work performed in connection with the recall election and drafting of the Measure B initiative.

As noted above, the CSD did not retain or have an attorney-client relationship with the law firm that represented the citizen groups while the now-settled litigation was pending. Accordingly, the CSD cannot waive the attorney-client privilege as to billings submitted to the private party plaintiffs during the litigation because it does not hold the attorney-client privilege as to those documents, nor does it have unredacted copies of those documents. The recommendation of the Grand Jury in this regard cannot therefore be accommodated and the further recommendation relating to actions following waiver of the attorney-client privilege cannot be implemented.

The Grand Jury was given extensive information, materials and documents to review all of which demonstrated that the billings for the settled litigation that were sent to the citizens groups were prepared on a monthly basis during the pendency of those suits showing cumulative fees and costs incurred. The billing entries were set forth by each litigation matter and were detailed as to the attorney who performed the work and the time and date that the work was performed. In addition, all information with regard to costs incurred in addition to legal fees was set forth in unredacted form

in the documents that were presented voluntarily to the Grand Jury by the law firm that represented the private citizen groups involved in this matter.

One of the documents presented to the Grand Jury further specifically itemizes the work done with regard to Measure B prior to the initiation of legal action by the CSD. The detailed chart from that document is attached. In that document the non-litigation related fees are identified and noted as having been written off by the law firm. Those fees amount to approximately \$50,000. The segregation of those fees from the lawsuits in the records presented to the Grand Jury should be strong evidence that there was no attempt by the law firm or the citizen groups to recoup fees that were unrelated to the actual litigation that was the subject of the settlement agreements. We note no facts or evidence in the Report to support the implication made by the Grand Jury in this regard.

Finally, a public entity has the authority to compromise and settle any pending litigation based on factors other than the actual fees incurred by plaintiffs. In this case, five lawsuits were settled for an amount roughly equal to the amount that was likely to be obtained in a fee judgment on the pre-election initiative challenge alone. It could be argued by the law firm that in fact, four of these cases were settled at virtually no cost to the CSD.

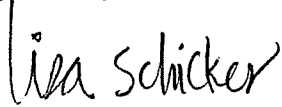
It should also be noted that there can be many analytical structures used to determine settlement amounts for litigation such as this. The cost of continuing to defend against a lawsuit is certainly one basis for settlement. The burden on public resources and time, and the likelihood of success or failure on the merits of the case all factor into settlement agreements as well. In this case, the CSD had lost the pre-election challenge case and was running the risk of losing one or more of the other still pending matters.

The Board was faced with a situation where the lawyers for the citizens groups could have obtained a multiplier based upon a much higher base rate than was offered in the settlement negotiations on all five lawsuits. Our interim general counsel advised us that the proposed settlement amount was sound, that it reflected a reduced public rate that the law firm did not have to offer, and that it avoided the risk of a multiplier which, if applied to even just the pre-election challenge case, could easily have resulted in an award of \$450,000 or more. We chose to avoid those risks and resolve the disputes.

It is certainly true that public funds were used to settle these lawsuits. The Board of the CSD carefully considered its actions at the time. It weighed and measured the

risks and values involved in going forward to defend policies rejected by the electorate and determined that it was imperative that these lawsuits end to honor the mandate of the people. The Board strongly believes that use of public funds in this manner under the circumstances at the time was the right, just and appropriate step to take.

Respectfully submitted,

A handwritten signature in black ink that reads "Lisa Schicker". The signature is written in a cursive, flowing style.

Lisa Schicker, President
Los Osos Community Services District

Copy: LOCSD Board of Directors
District Special Counsel, Julie Biggs
Interim General Manager, Daniel M. Bleskey

What Did It Cost Per Case?



- Here is the breakdown of costs Here is the breakdown of costs for the lawsuits that have been settled:

Measure B	- Actual Cost	Settlement Amount
○	\$144,500	\$125,000
4/5ths Vote	- Actual Cost	Settlement Amount
○	\$214,500	\$193,500
CEQA	- Actual Cost	Settlement Amount
○	\$ 84,200	\$ 79,200
Public Waste	- Actual Cost	Settlement Amount
○	\$ 48,500	\$ 43,000
Dumping	- Actual Cost	Settlement Amount
○	\$ 48,500	\$ 48,000
Totals	\$540,200	\$488,700
Unreimbursed Fees	\$51,500	

TO: The Honorable Rodger Piquet,
California Superior Court, San Luis Obispo County

FROM: County of San Luis Obispo Board of Supervisors
Katchik "Katcho" Achadjian, Chairman

DATE May 2, 2006

RE: 2005-2006 Grand Jury Report - Pesticide Use at the Agricultural/Urban Interface

Thank you for the opportunity to respond to the Grand Jury report related to Pesticide Use at the Agricultural/Urban Interface. This memo is the County Board of Supervisors response to the report. The required response from the County Planning Department, County Department of Public Health and the County Agricultural Commissioner is also attached to this memo.

Grand Jury Finding 1

California grows more than 85% of the nation's strawberries and other methyl-bromide dependent crops. San Luis Obispo County growers planted 800 acres of strawberries in 2004. In 2005, 18 restricted materials permits were issued for the use of methyl bromide. Besides its toxicity, methyl bromide is a significant contributor to the ozone depletion in the atmosphere. The use of this pesticide continues despite the fact that the U.S. has signed the Montreal Protocol treaty, which promised to ban the use of methyl bromide by 2005. Efforts are still in progress on both the federal and the state levels.

Board of Supervisor's Response to Finding 1

The Board of Supervisors agrees with the finding. However, the Board provides a clarification regarding the finding related to the Montreal Protocol treaty. The finding incorrectly implies that the United States continues to use methyl bromide in violation of the Montreal Protocol. In simple terms, the Montreal Protocol is an international treaty that deals with the substances that cause the depletion of the atmospheric ozone layer referred to as Ozone Depleting Substances (ODS). The United States ratified the treaty in 1988.

The Montreal Protocol included the phased reduction, with the intent to eventually eliminate the use chemicals that cause the depletion of the ozone layer. Methyl bromide, a chemical used in agricultural production and as a fumigant for international product shipments was identified as an ODS. The Montreal Protocol initially established a 2010 date for the complete phase out of

methyl bromide. This time frame was later moved up to 2005 as the date when developed countries should cease use of methyl bromide.

Updates to the Montreal Protocol have occurred since it became operational in 1989. The current standards for the treaty allow for exceptions to the ban for critical uses. The exceptions (known as Critical Use Exemptions or CUEs) may be submitted by nations that are signatories to this international treaty. The United States is one of over a dozen nations that have requested and been granted exemptions.

Requested Critical Uses Exemptions are allowed when the users currently have no safe, effective and economically viable alternatives to methyl bromide use for crops and post-harvest uses. Within the United States, exemptions are first submitted to and reviewed by the U. S. Environmental Protection Agency (EPA). The EPA analyzes the requests using teams of biologists, economists and other experts who evaluate whether or not there is a critical need for methyl bromide, based on the criteria agreed to by the Parties of the Montreal Protocol. The EPA sends the nomination of critical use exemptions to the Ozone Secretariat of the United Nations. The Ozone Secretariat forwards the nomination package to the Methyl Bromide Technical Options Committee (MBTOC), an advisory group that provides technical expertise related to methyl bromide on behalf of the member nations. MBTOC reviews the nomination requests and makes recommendations to that are reviewed and decided by consensus at meetings of the parties that are signatory to the Montreal Protocol.

Grand Jury Finding 2

Growers are subject to obtaining use permit, being inspected and fined for violations ranging from fifty to many thousands of dollars depending on the nature of the noncompliance.

Board of Supervisor's Response to Finding 2

The Board agrees with this finding.

Grand Jury Finding 3

All schools are considered "sensitive sites". School safety issues that have been addressed include parental information regarding spraying schedules, the creation of buffer zones around schools and childcare centers and mandatory conditions on restricted pesticide application when children are present.

Board of Supervisor's Response to Finding 3

The Board agrees with this finding.

Grand Jury Finding 4

The CAC and Public Health Department have coordinated efforts to update their database of childcare facilities in order to prevent pesticide exposure to this most vulnerable population.

Board of Supervisor's Response to Finding 4

The Board of Supervisors agrees with this finding.

Grand Jury Finding 5

The Environmental Resource Section (land use) of CAC's office is periodically requested by the Planning Department to provide input regarding a suitable location for a new school. This information, which takes into consideration the proximity to existing commercial agriculture, is often disregarded. New schools continue to be placed near large agricultural venues.

Board of Supervisor's Response to Finding 5

The Board of Supervisors partially disagrees with this finding. We agree that the Environmental Resource Section of the Agricultural Commissioner's Office is periodically requested to provide input regarding land use permits involving the development of schools and school sites. We disagree that the information about the proximity of commercial agriculture is disregarded. The Grand Jury states that the information from the Environmental Resources Section is "often disregarded" but provides no support for the statement. As such, the statement appears to be more opinion, than a finding.

The Board considers all of the information presented in land use permits hearings and meetings before making decisions. School districts are generally the entity that selects and recommends the location for school sites.

Grand Jury Finding 6

The Task Force on Health and Pesticide Use recommended that they meet every three years.

Board of Supervisor's Response to Finding 6

The Board agrees with this finding.

Recommendations

Grand Jury Recommendation 1

The Grand Jury strongly recommends that less toxic materials be used to replace methyl bromide and that the Board of Supervisors actively support the Montreal Protocol. (Finding #1)

Board of Supervisor's Response to Recommendation 1

The Board of Supervisors will not implement this recommendation. The Board is in general agreement that use of less toxic materials is desirable. However, the Board also notes that the State of California has passed laws and regulations that govern the use of pesticides, including methyl bromide. California's laws governing pesticide use are some the nation's most stringent.

The nations that are signatory to the Montreal Protocol have developed processes to implement this treaty. The Board acknowledges that the signatories to the Montreal Protocol have considered and approved the temporary and limited continued use of methyl bromide under the existing critical use guidelines of the Montreal Protocol. We acknowledge that under the treaty, member nations can work together to develop and determine the strategies, appropriate time frames and processes to implement the concepts of the treaty.

The Board appreciates and is sensitive to the concerns expressed by the Grand Jury and members of the community. However, we also recognize that San Luis Obispo is an agricultural area, and modern agriculture production uses pesticides, fertilizers and other substances that help increase the productivity of our farm lands. We recognize that the Agricultural Commissioner has the authority to evaluate applications to apply regulated substances as part of the effort to assure the appropriate laws and regulations are followed. The laws and regulations are oriented to promoting the safety of the people who use these substances in agricultural production, as well as those who and live in and around agricultural areas.

Grand Jury Recommendation 2

Fines imposed on growers should be reviewed and made stringent enough to deter infractions of all regulations. (Finding #2)

Board of Supervisor's Response to Recommendation 2

The Board adopts the response by the response by the Agricultural Commissioner in his memo dated April 3, 2006 as the Board of Supervisors Response.

Grand Jury Recommendation 3

Restricted pesticides should be prohibited on school grounds. School officials should adhere to the principles outlined in the Healthy Schools Act of 2000 (AB 2260 and AB 1006) until the long-range effects of pesticides on children's growth patterns can be documented. Buffer zones around schools should be broadened beyond those specified on the manufacturer's label. (Finding #3)

Board of Supervisor's Response to Recommendation 3

The Board adopts the response by the response by the Agricultural Commissioner in his memo dated April 3, 2006 as the Board of Supervisors Response.

Grand Jury Recommendation 4

The annual updating of childcare locations is an important part of protecting children. Mandatory annual updating should be the responsibility of the office of the CAC. (Finding #4)

Board of Supervisor's Response to Recommendation 4

The Board adopts the response by the response by the Agricultural Commissioner in his memo dated April 3, 2006 as the Board of Supervisors Response. The Board further

encourages the Public Health Department and the County Agricultural Commission to work together to provide regular updates of childcare and school site locations.

Grand Jury Recommendation 5

Recommendations from Environmental Resource Section should be an essential part of any new school project's planning. (Finding #5)

Board of Supervisor's Response to Recommendation 5

This recommendation has already been implemented. New school sites are proposed by school district officials and undergo a full land use review. The review includes input from the Agricultural Commissioner's Environmental Resource Section, review for compliance with the California Environmental Quality Act and other laws and regulations that govern development. Decisions by school district officials and the Board consider all information relevant to the requested use and are not solely based upon the recommendations of the Agricultural Commissioner's Environmental Resource Section.

Grand Jury Recommendation 6

The Grand Jury recommends that the Task Force on Health and Pesticide Use meet annually for the purpose of review and recommendations. (Finding #6)

Board of Supervisor's Response to Recommendation 6

The Board will not implement this recommendation. The Task Force on Health and Pesticide Use has determined to meet on a three-year basis. The Board of Supervisors respects the decision of the Task Force and acknowledges the following recommendation of the Health Commission made at their April 10, 2006 meeting. "The Pesticide Task Force is comprised of members from agricultural, health, and environmental fields as well as interested citizens and Health Commissioners. In order to perform an in depth review, and maintain participation, the Health Commission Pesticide Task force should hold a series of meetings and report back to the Health Commission and responsible organizations with findings and recommendations every 3 years. Doing this on an annual basis would reduce participation and lead to a superficial review." The Board will not implement the recommendation of the Grand Jury, as it is not warranted for the reasons provided in the Health Commission recommendation above.

TO: The Honorable Rodger Piquet, Presiding Judge
California superior Court, County of San Luis Obispo

FROM: Robert Lilley, Agricultural Commissioner/Sealer

DATE: April 3, 2006

SUBJECT: Response to Grand Jury Report

This is the San Luis Obispo County Agricultural Commissioner (CAC) required response to the San Luis Obispo County Grand Jury Report Pesticide Use At The Agricultural/Urban Interface “Grassroots Effort Yields Promising Crops” in fiscal year 2005-2006 (pursuant to California Penal Code §933 and §933.5). Department responses are required for Findings 2, 3, & 4 and Recommendations 2, 3, & 4. The associated Grand Jury findings and recommendations are numerically grouped. The groupings are followed by the department’s response.

Introduction

Our department welcomes the opportunity to provide information on San Luis Obispo County’s Pesticide Use Enforcement Program. The mission of the Pesticide Use Enforcement Program is to protect people, the environment and the food supply by ensuring the safe use of pesticides in San Luis Obispo County. The Grand Jury’s attention to this important subject is helping us to continue to identify and be aware of the concerns of the community and to educate the public about protective measures already in place.

Grand Jury Finding – 2

Finding: Growers are subject to obtaining use permit, being inspected and fined for violations ranging from fifty to many thousands of dollars depending on the nature of the noncompliance.

Department Response – Finding – 2

The Department agrees with the finding.

Grand Jury Recommendation – 2

Recommendation: Fines imposed on growers should be reviewed and made stringent enough to deter infractions of all regulations.

Department Response Recommendation – 2

The Department is implementing the recommendation in that penalties for violations are applied by the department accordance with the applicable laws and regulations. These penalties are intended to deter infractions of the laws and regulations that govern the use of pesticides.

All violations are reviewed for appropriate enforcement follow up and action is taken with the aim of deterring future non-compliances. The department maintains a no nonsense approach of taking enforcement follow up seriously. It should be noted that the regulated industry in San Luis Obispo County currently has a 96.3% compliance rate and our local enforcement program is rated by the California Department of Pesticide Regulations as one of the best in the state. A high level of compliance is viewed as a primary factor in determining adequate deterrence.

The following outlines how we review and categorize violations and fines, as well as other penalty levels available to us.

Section 6130(a) of the California Code of Regulations (CCR) Title 3 (**Attachment A**) provides the guidelines county agricultural commissioners are required to follow when fining for pesticide violations. Violations are designated as Class A (\$700-\$5,000), Class B (\$250-\$1,000), and Class C (\$50-\$400).

A Class A violation is defined as one which created an actual health or environmental hazard, is a repeat of a Class B, or is a violation of a lawful order of the commissioner to “Cease and Desist” the operation of equipment or a facility which is unsuitable or to prevent the further commission of violations that will present an immediate hazard or cause irreparable damage.

A Class B violation is defined as one, which posed a reasonable possibility of creating a health or environmental effect, or is a repeat of a Class C.

A Class C violation is one not defined in either Class A or Class B. Effectively, they are paperwork and neither creates nor poses the reasonable possibility of creating a health or environmental effect.

A repeat violation is one where a previous fine was levied in the same Class as the proposed fine within two years of the date of the Notice of Proposed Action for the current violation.

The California Department of Pesticide Regulation (DPR), the state agency with authority over the regulation of pesticides, provides guidelines to commissioners on when to fine. DPR annually audits the commissioner's pesticide enforcement program, including their adherence to the fine guidelines, with respect to proposing fines when appropriate and their placement at the correct levels per Section 6130(a) of the CCR.

Our department reviews all violations and follows DPR fine guidelines on when to fine. We perform an internal review to maintain consistency when fining individuals and businesses, determining the fine class, and placing the fine at an appropriate level within each class based on the circumstances of the violation and the violators compliance history.

Violations can be subject to other penalties: (1) violations can be prosecuted criminally as misdemeanors per Section 12996 of the FAC (**Attachment B**) for fines from \$500 to \$5,000 and/or imprisonment for six months, subsequent violations for fines from \$1,000 to \$10,000 and/or imprisonment for six months, with criteria for certain types of violations for fines from \$5,000 to \$50,000 and/or imprisonment for one year. (2) Violations can be prosecuted civilly by DPR and the State Attorney General per Section 12998 of the California Food and Agricultural Code (FAC) (**Attachment C**) in amounts ranging from \$1,000 to \$10,000 with subsequent violations, depending on circumstances, in amounts of \$5,000 to \$25,000 for each violation. (3) Additional administrative actions are available such as suspending, revoking, or denying restricted materials permits by the County Agricultural Commissioner, and suspending, revoking or denying licenses to sell or apply pesticides by DPR.

Our department consults with DPR and the District Attorney to determine when to pursue these alternatives to administrative fines.

Grand Jury Finding - 3

Finding: All schools are considered "sensitive sites". School safety issues that have been addressed include parental information regarding spraying schedules, the creation of buffer zones around schools and childcare centers and mandatory conditions on restricted pesticide application when children are present.

Department Response Finding – 3

The Department agrees with the finding.

Grand Jury Recommendation - 3

Recommendation: Restricted pesticides should be prohibited on school grounds. School officials should adhere to the principles outlined in the Healthy Schools Act of 2000 (AB 2260 and AB 1006) until the long-range effects of pesticides on children's growth patterns can be documented. Buffer zones around schools should be broadened beyond those specified on the manufacturer's label.

Department Response Recommendation – 3

This recommendation will not be implemented for several reasons. First the Department disagrees that there should be a complete prohibition of the use of restricted pesticides on school grounds. The restricted material permit issuance process for the use of restricted pesticides provides necessary authority to approve or deny the use of restricted materials requested by a school on a case by case evaluation.

The Department agrees that School officials should adhere to the principles outlined in the Healthy Schools Act of 2000 (AB 2260 and AB 1006) until the long-range effects of pesticides on children's growth patterns can be documented. However, implementation of this recommendation is not within the authority of the Department but rather its implementation rests with school officials.

The Department will not implement this recommendation as the Department has limited authority to implement the recommendation. The Commissioner has limited authority to further regulate buffer zone distances, beyond what is already required by the pesticide label, including the buffer zones around schools.

The department will address the three recommendation areas separately:

1) Restricted Material Use on School Sites

Our department disagrees with the Grand Jury recommendations that restricted materials should be prohibited from use on school grounds. The restricted material permit issuance process for the use of restricted pesticides provides necessary authority to approve or deny the use of restricted materials requested by a school. A school may have a pest problem that threatens the health or safety of the children where the only reliable method of control is a restricted material (e.g. a rodent borne plague outbreak or poisonous spider infestation). Also, alternative methods of pest control may actually be more hazardous to children than the use of restricted pesticides (e.g. the use of scissor traps for gopher control is potentially more dangerous than underground poisoned bait applications).

The permit process allows for analysis of the use of restricted rodent pesticides (**Attachment D**), on an individual basis. This process requires an analysis of potential hazards related to sensitive sites including the likelihood of substantial environmental effects. Before a permit can be issued a series of determinations are required regarding the hazards. If the hazards are mitigated, a permit may be issued. If the hazards are not mitigated the permit must be denied.

The permit process provides the ability for any interested person to request the commissioner review their action in issuing or denying a permit and requires a written response by the commissioner affirming, modifying or canceling the permit action. After the written decision a directly affected person may appeal to the director of DPR for a review of the commissioner's action (**Attachment E**).

The use of restricted pesticides on K-12 school grounds is very limited in the county. However, a few school grounds may use restricted pesticides on their grounds in areas such as the sports fields for rodent or weed control, or as a part of the educational process in vocational agricultural programs to provide instruction on how to manage pests at the production agricultural level.

2) Healthy Schools Act of 2000

Pesticide uses on school sites are governed by general California pesticide laws and regulations, enforced by the Agricultural Commissioner, and by specific laws for schools (Healthy Schools Act 2000, AB 2260), enforced by the Department of Education. The Healthy Schools Act goes beyond the scope of general pesticide laws and regulations in the state. The Healthy Schools Act of 2000 (**Attachment F**) covers the use of any pesticide, restricted or non-restricted. Our department agrees with the Grand Jury that school officials should adhere to the principals and requirements of the Healthy Schools Act.

Our department held multiple meetings with all of the school districts in the county prior to and since the adoption of the Healthy Schools Act. The purpose of these meetings was to provide guidance on how to comply with the Healthy Schools Act, and to promote Integrated Pest Management (IPM). In addition, DPR has complied with the Healthy Schools Act, which requires them to provide specific information to schools on IPM. IPM information and complete details of the Healthy Schools Act are posted on DPR's web site (www.cdpr.ca.gov). Additionally, DPR is available to provide additional training to individual school districts to help them comply with the Healthy Schools Act.

In summary, the Healthy Schools Act requires school districts provide annually a list of all pesticides that might be used to parents or guardians, and staff during the school year.

Subsequently, recipients of the list may request advance notification of individual pesticide applications. Also, pesticide treated areas are posted for prescribed times prior to and after applications.

The Grand Jury also notes school officials should comply with California AB 1006. AB 1006 was legislation proposed in the 2004-2005 legislative session. This bill addressed the prohibition of the use of certain pesticides on school sites. However, AB 1006 was not chaptered into law. Instead, an alternate bill AB 405 became effective on January 1, 2006 (**Attachment G**). This law is also enforced by the Department of Education.

AB 405 prohibits the use of pesticides that are currently registered for use in California under a conditional registration, an interim registration, or an experimental use permit. The prohibition is based on the fact these types of registrations typically have outstanding data requirements related to toxicity. An exception to the prohibition is made for conditionally registered pesticides with complete health toxicity data. Also, the prohibition does not apply to pesticides used for the protection of public health. DPR will create and maintain a list, on a quarterly basis, of prohibited pesticides (**Attachment H**). None of the prohibited pesticides are restricted materials. We agree that school districts should comply with AB 405.

3) Schools as Sensitive Sites and Buffer Zones for Adjacent Uses of Pesticides

Our department considers all schools as sensitive sites. A database of all public and private K-12 schools and licensed daycare centers is utilized. These schools are a layer in the department's Geographic Information System (GIS) used to map the location of agricultural crops and parks. This layer is used to identify where pesticides might be used adjacent to schools. The GIS is used to identify those schools within 500 feet of agricultural sites. This information is used to identify and make site specific requirements to individual Restricted Material Permits and make site specific recommendations, beyond what is required by the pesticide label and in regulation, to individual Operator Identification Numbers issued for the use of non-restricted pesticides.

San Luis Obispo County mandatory buffer zones exist for the use of restricted materials adjacent to schools. Ground applications are prohibited within 500 feet and aerial applications are prohibited within mile of schools (**Attachment I**). These prohibitions exist while children are present at the school and are issued as a restricted material permit condition to individual restricted material permit holders. These buffer zones exist for all restricted materials using ground or aerial application methods. In addition, some specific restricted materials and application methods have larger mandatory buffer zones for occupied structures, which include schools (e.g. a 1 mile buffer zone for overhead

sprinkler applications of metam or potassium sodium – San Luis Obispo County Restricted Material Permit Condition 14 – **Attachment J**). These mandatory buffer zones are larger than any required by manufacturer’s labels.

The commissioner has limited authority to further regulate, beyond what is already required by the label and regulation, the use of non-restricted materials per Section 14006.6(a) of the FAC (**Attachment K**). Additional authority to further regulate non restricted materials only applies if the commissioner determines the use of the non-restricted material will cause an undue hazard under local conditions. Suggested site specific mitigation measures are made to users of non-restricted materials adjacent to sensitive sites, including schools (**Attachment L**). These suggested mitigation measures could include buffer zones. Agricultural users of any pesticides, restricted and non-restricted, with sites within 500 feet of schools are provided specific suggestions for pesticide applications made near homes, schools, and other sensitive sites (**Attachment M**).

AB 947 of 2002 does not provide commissioners with the authority to mandate buffer zones of _ mile around sensitive sites (i.e. schools and hospitals) as determined by the Grand Jury Report Appendix B “Legislation Governing Pesticide Use in California” under item 3: AB 947, 2002 (**Attachment N**).

AB 947 of 2002 (**Attachment O**) added Section 11503.5 to the FAC. Section 11503.5 of the FAC allows the commissioner to apply Section 11503 of the FAC (**Attachment P**) to adopt regulations applicable to their county with respect to timing, notification, and method of application within _ mile of a school for pesticides used for agricultural production. When adopted, these regulations are operative within 30 days of their submission, by the commissioner, to the Director of DPR if they are not specifically disapproved in writing.

The Agricultural Commissioner’s Office has not pursued the local rule making process to require additional restriction on non-restricted pesticides around schools as identified in AB 947 because the current system is providing for a level of protection that mitigates hazards around schools sites.

Grand Jury Finding - 4

Finding: The CAC and the Public Health Department have coordinated efforts to update their database of childcare facilities in order to prevent pesticide exposure to this most vulnerable population.

Department Response Finding – 4

The Department agrees with this finding.

Grand Jury Recommendation - 4

Recommendation: The annual updating of childcare locations is an important part of protecting children. Mandatory annual updating should be the responsibility of the office of the CAC.

Department Response Recommendation – 4

The Department will not implement this recommendation, as the department does not have the authority to require or obtain information pertaining to the locations of childcare facilities. However, we do agree the annual updating of childcare locations is an important part of protecting children.

The Public Health Department and our department are coordinating efforts to map agricultural operations within 500 feet of a schools or licensed childcare facilities. **(Attachment Q).**

The Public Health Department has the responsibility and authority to gather licensed childcare facility information. Our department is committed to working with the Public Health department to utilize licensed childcare facility information in our GIS layer, which also includes public and private schools.

Conclusion

Our department recognizes the value of the Grand Jury work in reviewing how the department regulates the use of pesticides and enforces those regulations through fine actions in San Luis Obispo County. In particular, the department welcomes their interest in the protection of children. Our department takes the protection of public health and the environment seriously and is committed to enforcing state laws and regulations, which are designed to provide protection from pesticides.

Our department will continue to respond to and track citizen concerns and complaints about pesticides use in San Luis Obispo County. Whenever possible we will continue to adopt and adjust our enforcement program to meet the needs of the community within our authority and regulatory mandates.

Attachments

- A. Section 6130(a) of the California Code of Regulations (CCR)
- B. Section 12996 of the California Food and Agricultural Code (FAC)
- C. Section 12998 of the FAC
- D. Overview of the Pesticide Permit Consideration Process Under Functional Equivalency Certification
- E. Section 14009 of the FAC
- F. Healthy Schools Act of 2000 – AB 2260, 2000
- G. AB 405, 2005
- H. List of Pesticide Products Prohibited from Use in Schools
- I. San Luis Obispo County Restricted Material Permit Condition #3A – Restricted Material Applications Adjacent to Schools.
- J. San Luis Obispo County Restricted Material Permit Condition #14 – Metam Sodium/Potassium Sodium
- K. Section 14006.6(a) of the FAC
- L. Non-Restricted Materials – Suggested Mitigation Measures for Sensitive Sites
- M. Public Relations – Neighbors and Sensitive Sites – Suggestions for Pesticide Applications Made Near Homes, Schools, and Other Sensitive Sites
- N. Grand Jury Report, Appendix B – Item 3
- O. AB 947, 2002
- P. Section 11503 of the FAC
- Q. Schools/Daycare within 500 feet of Crop/Parks

Atascadero Unified School District

5601 WEST MALL • ATASCADERO, CALIFORNIA 93422
DISTRICT OFFICE (805) 462-4200 • FAX (805) 462-4421

John Rogers, Superintendent

July 13, 2006

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MD.

The Honorable Roger T. Picquet
Presiding Judge
San Luis Obispo County Superior Court
1035 Palm Street
San Luis Obispo, CA 93408

Judge Picquet,

Enclosed, please find the required response to the Findings and Recommendations of the San Luis Obispo County Grand Jury 2005-2006 Report regarding Racial Issues at Atascadero High School.

For your convenience, this format includes the Grand Jury's Findings and Recommendations underlined above the Atascadero High School Principal's responses.

If I can be of further service, please feel free to contact me.

Sincerely,



JOHN ROGERS
District Superintendent

Enclosure

DEDICATED TO STUDENTS ~ COMMITTED TO EXCELLENCE

Carrisa Plains School • Creston Elementary • Monterey Road Elementary • San Benito Road Elementary
San Gabriel Road Elementary • Santa Margarita Elementary • Santa Rosa Academic Academy
Atascadero Fine Arts Academy • Atascadero Junior High School • Atascadero High School
Del Rio Continuation High School • West Mall Alternative School • Atascadero Adult School

ATASCADERO HIGH SCHOOL
One, High School Hill
Atascadero, California, 93422

Submitted to the Presiding Judge of the Superior Court

Required Responses to the San Luis Obispo County Grand Jury Report 2005-2006

Submitted by Mrs. Kim Spinks, Principal, AHS

July 27, 2006

Findings:

1. AHS reports a racial, sexual, or religious harassment incident to the District only when it is serious enough for the perpetrator to be suspended or expelled. Vandalism and destructive incidents resulting in appreciable financial impact are also reported to the District.

Atascadero High School Administration and clerical staff reports any type of an incident that could be considered serious to a large group of students' safety or is repetitive in nature to the Superintendent's secretary. It is our practice to report senior suspensions in length of 4 or 5 days due to the loss of the senior's right to walk in graduation. It is also our procedure to notify the Superintendent's secretary of any student who is suspended for an Education Code violation that would cause us to file expulsion paperwork. We, at AHS, take any kind of racial, sexual, or religious harassment very seriously. We do not sweep it under the carpet, nor do we plan to. If the harassment causes vandalism of a nature that requires clean-up, paint or sand blasting, we notify the Maintenance Department so that they can get the appropriate personnel and equipment on site to restore the facility. The Maintenance Department has been known to come in on Sunday and clean up graffiti that is hateful, hurtful, and slanderous. At the end of a school year, or at their August meeting, the Board of Trustees is notified of the annual discipline numbers for review. Although suspensions are reported to the District Office and records are maintained regarding the nature of the suspension at the district level, discipline is reported regularly to Educational Services or to the Special Services Departments when support services are needed for students in crisis. Family advocates are utilized by our counselors to provide support for students and their families, especially when racial, sexual or religious harassment takes place because punishment may attack the symptom but not the cause or the foundation of the problem.

2. Incidents not reported to the District are simply logged at the high school. Not all harassment incidents are reported to the AHS Principal. Nearly all of the logged entries are discarded at the end of the school year.

There are instances of harassment that happen at the high school that are not reported to the District Office at the time or day they occur. The Assistant Principal of Discipline reports to the Principal, either at the weekly Manager's meeting or during the day, any serious issues that may be occurring. The Principal will then notify the Secretary to the Superintendent or she will notify the District Office Administration during the weekly Superintendent's Cabinet Meeting. There is a log kept in the Atascadero High School Discipline Office. Some reports are kept by formal documentation and other reports are kept in the Discipline Secretary's note pad. Student records that document behavioral incidents or disciplinary are entered on the student record and are kept until graduation.

3. In 2004-2005, AHS estimated there were 10 to 20 incidents of racial or sexual harassment. Only two resulted in suspension or expulsion. Most of the incidents were racial in nature.

All of the information is recorded in the SASI student information system. The information is kept for the length of time required by the State of California. In the 2004-2005 school year, Atascadero High School had one student suspended for sexual harassment. Without knowing specific student names, it is difficult to verify the statement, 'Most of the incidents were racial in nature.'

4. Not all incidents of racial, sexual, and religious harassment are reported to school or law enforcement authorities.

I am sure that there are situations of racial, sexual, and religious harassment that are not reported to the school and law enforcement authorities. Although AHS encourages students to talk to teachers, administrators, or counselors about issues they might have, the students do not report all incidents. The reasons for this vary based upon the individual involved. When a report is received by AHS' staff, it is dealt with appropriately. Within our system, however, we have realized that some 'soft spots' for reporting exist. If, for example, student conflict occurs at a bus stop or on a bus transporting students to or from a school site, Transportation personnel have the responsibility of handling the situation, and filing a report with their supervisor if they believe documentation is warranted. Sometimes a report is not generated. Sometimes there is a time lag for reports of student behavior to be submitted from the Transportation Department to an administrator at the school site. We have recognized this as weakness in our program. For the past year, the Transportation Department and the schools have been working more closely together to ensure that the student understands that what happens on the bus also affects them at school, and that action is taken at the school site to support the driver and the students.

5. District administration has a record of only one racial harassment incident at AHS in school year 2004-05.

The District keeps records of formal complaints submitted to the Superintendent. These complaints are addressed within policy timelines and procedures. Most student behavior issues are addressed at the school site by staff and are not forwarded to District Office personnel, as policy states that issues should try to be resolved at the lowest level possible. Requests for assistance made through Community Based Team or through the resources provided through the Community LINK's services that the District Office has contracted for more intense SAFE System of Care services are confidential and would not have formal records available at the District level.

6. AHS has no formal counseling program for those students who are suspended or expelled for committing racial, sexual or religious harassment offenses. Students must seek counseling outside the school system.

Many times we recommend counseling for students who have been suspended. In the case of racial, sexual, or religious harassment, we do not currently offer a student support counseling group. Our student support counseling groups are voluntary and are staffed by professionals who would like to help high school students. These groups address a multitude of issues. It is difficult finding a professional who will sacrifice a good paying opportunity to volunteer to work with high school kids. It is also necessary that the student has a desire to attend. If the District were to require students to have professional counseling, then the District would be required to pay for the services. Unfortunately, the District does not have funds to support this service. The District does, however provide the SAFE System of Care, which is a Community Based Support System through the Community LINK. Family Advocates provide voluntary services to families and to students which includes low-cost or free counseling if the student qualifies, but this is completely voluntary and must be a family supported activity.

7. The AHS safety plan contains a well prepared, lengthy, and complete "Sexual Harassment Policy".

I agree with this statement.

8. The AHS safety plan contains thirteen sentences of generic language prohibiting discrimination, "...with respect to age, ethnic groups, religion, gender, sexual orientation, color, race, national origin, ancestry, and physical or mental disability."

I agree with this statement.

9. Tolerance and diversity issues are discussed in staff meetings and whenever necessary to address specific incidents. Sexual Harassment training is the only related training done on an annual basis. Tolerance training is offered to District students as a component of health classes.

When a racial minority student was a junior and a senior in high school, he was a member of the Student Advisory Group that met every four to six weeks. The purpose of the group was for the students to have a direct contact with the Principal and the Assistant Principal of Discipline and an opportunity to share any issues that are going on, on campus. There were times when the student would tell us that students were harassing him or others. We could never get specifics of what he meant by harassment. That didn't stop us from discussing it with the staff. When these subjects, topics or examples would come up, we would share them with the staff at the next staff meeting. We would talk about ways to handle different situations in the classroom or out on campus during lunch or break. We also have covered tolerance type topics twice a year for the past two years during staff development days. All administrators received the two-hour, interactive Sexual Harassment training, as required by state law. All Administrators present Sexual Harassment training on an annual basis to staff along with dozens of mandated safety and health topics that are scheduled for staff meeting training topics each year. Included in these topics are uniform complaint procedures for disability, ethnic, gender, race, socioeconomic, religious, and other types of discrimination. These topics are presented collectively, however, discussion about specific discrimination issues can be part of the interactive process.

10. AHS does not have any parent/teacher/student support-groups to specifically address issues of racial and religious harassment.

I do not agree with this statement. In fall of 2004, we started "Greyhound Hot Topics." The purpose of this evening meeting is to talk about subjects that parents want to talk about. We started off with a couple of key issues such as drugs and alcohol at the high school and how to work with students through their high school days. We supplied a suggestion box at every meeting so we can get information on topics the parents want to hear about instead of us giving out information on what we think parents want to know about. To date, the best-attended evening meetings have been those at which the topics were: teen suicide, cyber bullying, and how to identify a meth user. Other avenues to voice your opinion to the high school administration are through the Parent, Teacher, Student Association (PTSA), and by calling me directly. Additionally, we have held drug awareness nights with our Hispanic community that was widely attended because it was promoted by the Hispanic Liaison the District contracts to employ through the Community LINK.

11. The perception is that AHS administration places a greater degree of importance on incidents of sexual harassment over those of racial harassment.

I do not agree with this statement. The Administration at Atascadero High School has no tolerance for any kind of harassment of any type. Each category of harassment will be addressed within its context and is not tolerated!

12. Fights, vandalism and harassment continue to be problems at AHS. AHS' security coverage has been identified as a weak link in campus safety.

The statistics from the 2003-04 to the 2004-05 school years indicated that fights increased by 15 incidences totaling 40; and battery decreased by 3 incidences totaling 2. Vandalism increased by 4 incidences totaling 5; and harassment increased by 1 incident totaling 1. Currently during the 2005-2006 school year, fights have decreased by 1 incidence totaling 39; and battery decreased by 1 incident totaling 1. Vandalism decreased by 5 incidences totaling 0; and harassment increased by 1 incident totaling 2. It is not clear whether the campus security coverage can be blamed as the weak link in this increase. There are many different variables that could be affecting this.

Recommendations:

1. The Grand Jury recommends the District and AHS develop and implement two separate policies, each addressing racial harassment and religious harassment. Each policy should be as extensive in scope, language and definition as the current AHS Sexual Harassment Policy. If implementation of such policies requires approval from specific State Agencies, then the District should pursue immediate approval to prevent any delay in policy implementation. (Findings 7, 8 and 11)

Policy is developed and edited by the District Office Administration and by legal services. We would like to work with a committee to help develop or edit this policy and administrative regulation.

2. As an integral part of racial and religious harassment education and prevention, the District and AHS should pursue the formation of a volunteer advisory committee made up of concerned parents, teachers and students. The committee would focus on: (1) racial and religious harassment and, (2) education on diversity and tolerance. The District should seek the input of these advisory committees in the development of policy, staff, and student training and curricula. (Finding 10)

If the district deems it necessary for Atascadero High School to form two committees to address (1) racial and religious harassment and (2) increased education on diversity and tolerance in addition to "Greyhound Hot Topics" we will do it.

3. AHS and the District should immediately modify the current procedures regarding the reporting of racial, sexual, and religious harassment incidents. The Grand Jury believes all harassment incidents involving race, religion, and sexual orientation are significant and may be harbingers of more serious trouble. For that reason, the Grand Jury believes all such harassment issues must be reported to the District Office whether the offender(s) is known or not.

By eliminating the filtering of crucial information at the school level, the District will: (1) be aware of the scope and frequency of such incidents, (2) be able to develop and apply necessary disciplinary procedures, (3) be able to stay current with related events, both in the community and the school district, and (4) be prepared to develop related policies and procedures which directly address the issues. (Findings 1, 2, 3, 4, and 5)

Atascadero High School will formally log all incidents of racial, sexual, and religious harassment and will be report to the appropriate District Office staff.

6. AHS should immediately begin to identify racial and religious harassment as destructive forces in the same manner as sexual harassment.

We will continue to seek the best methods, procedures, and strategies to address all forms of inappropriate student behavior in the 2006-2007 school year. From this report we can understand the perception that the different documents may present to a reader or observer. We will take active steps to address these perceptions. These steps will include soliciting input from staff, students, and parents.